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7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 OAKLAND DIVISION

10 UNITED STATES OF AMERICA,	)	No. CR-12-00880 YGR
	)	
11 Plaintiff,	)	STIPULATION AND <b>ORDER</b> TO SET
	)	BRIEFING SCHEDULE, MOTION
12 v.	)	HEARING DATE AND TO EXCLUDE
	)	TIME UNDER THE SPEEDY TRIAL ACT
13	)	
14 RODERICK MENDOZA MAGGAY,	)	
	)	Date: February 22, 2013
15 Defendant.	)	Time: 2:00 p.m.
	)	
16	)	

17 The above-captioned matter is set on February 22, 2013 before this Court for motion  
18 setting or change of plea. Defendant is charged with a violation of 18 U.S.C. § 922(g) (felon in  
19 possession of a firearm). He has pleaded not guilty to the Indictment. After reviewing the  
20 discovery and the audio produced by the Government, Mr. Mendoza has decided to file a motion  
21 to suppress the evidence in this case. For this reason, the parties jointly request that the Court set  
22 the requested briefing schedule below and continue the matter to **May 2, 2013, at 3:00 p.m.**,  
23 before this Honorable Court for a hearing on the motion. The parties further request that the  
24 Court exclude time under the Speedy Trial Act, 18 U.S.C. § 3161, between February 22, 2013  
25 and **May 2, 2013**, for effective defense preparation and for the Court's consideration of the  
26 defense motion that will be filed in this case.

1 The parties are in agreement to the following briefing schedule which will provide the  
2 defense with two weeks to file an opening motion,<sup>1</sup> three weeks for a Government response and  
3 two weeks for a defense reply:

4 March 7, 2013 – defense opening motion

5 March 28, 2013 – Government opposition

6 April 11, 2013 – defense reply

7 The parties further request that the Court set this matter for a hearing on the defense  
8 motion for **May 2, 2013 at 3:00pm**, at which time the Court may decide if an evidentiary  
9 hearing is necessary in this case. The parties further stipulate and agree that the ends of justice  
10 served by this continuance outweigh the best interest of the public and the defendant in a speedy  
11 trial. The parties further agree that the failure to grant this continuance would unreasonably  
12 deny counsel for defendant the reasonable time necessary for effective preparation, taking into  
13 account the exercise of due diligence. Finally, the parties agree that time may be excluded based  
14 on the Court's consideration of the motion that the defense plans to file on March 7, 2013 until  
15 the conclusion of the hearing on, or other prompt disposition of, such motion. Accordingly, the  
16 parties agree that the period of time from February 22, 2013 until **May 2, 2013** should be  
17 excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A)  
18 and (B)(iv), for effective preparation of defense counsel, taking into account the exercise of due  
19 diligence, and once the defense motion is filed that the period of time until **May 2, 2013** should  
20 be excluded pursuant to § 3161(h)(1)(D).

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25 <sup>1</sup>The defense plans to request an expert service's preparation of transcripts of several of  
26 the relevant audio files that were produced to the defense last month, and for this reason the  
defense requests two weeks to file the opening motion.

1 DATED: February 20, 2013

/S/  
ACADIA SENESE  
Assistant United States Attorney

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4 DATED: February 20, 2013

/S/  
ANGELA M. HANSEN  
Assistant Federal Public Defender

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1 **ORDER**

2 Based on the reasons provided in the stipulation of the parties above, the Court hereby  
3 FINDS:

4 1. Given that the defense plans to file a motion to suppress and needs additional time  
5 to have transcripts of relevant audio recordings prepared before filing that motion;

6 2. Given that the parties have agreed on a reasonable briefing schedule and the  
7 defense will file an opening motion by March 7, 2013;

8 3. Given that the defense preparation of the motion is necessary for the defense  
9 preparation of the case and that the failure to grant the requested continuance would  
10 unreasonably deny counsel for defendant the reasonable time necessary for effective preparation,  
11 taking into account the exercise of due diligence; and

12 4. Given that the ends of justice served by this continuance outweigh the best  
13 interest of the public and defendant in a speedy trial.

14 Based on these findings, IT IS HEREBY ORDERED that the motion setting or change of  
15 plea hearing date of February 22, 2013, scheduled at 2:00 p.m., is vacated and this matter is reset  
16 to **May 2, 2013, at 3:00 p.m.**, for hearing on a defense motion to suppress. The defense opening  
17 motion is due on March 7, 2013; the Government's opposition is due on March 28, 2013 and the  
18 defense reply brief is due on April 11, 2013. It is FURTHER ORDERED that time is excluded  
19 pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B)(iv), from February 22, 2013  
20 until **May 2, 2013**. In addition, time is excluded pursuant to § 3161(h)(1)(D) once the defense  
21 motion is filed on until the conclusion of the hearing on, or other prompt disposition of, such  
22 motion.

23 DATED: February 21, 2013

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YVONNE GONZALEZ ROGERS  
United States District Judge